

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation against:)	
)	
JIBRAN JOSEPH HANNANEY)	Case No. 856-A
1040 East Washington Avenue, Apt. 34)	
El Cajon, CA 92020)	
)	
Civil Engineer License No. C 43384,)	
)	
Respondent.)	
_____)	

DECISION

The attached Stipulated Settlement for Public Reapproval is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter.

This Decision shall become effective on June 10, 2010.

IT IS SO ORDERED May 5, 2010.

Original signed

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KAREN L. GORDON
Deputy Attorney General
4 State Bar No. 137969
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **JIBRAN JOSEPH HANNANEY**
13 **1040 East Washington Avenue, Apt. 34**
14 **El Cajon, CA 92020**

15 **Civil Engineer License No. 43384**

16 Respondent.

Case No. 856-A

OAH No. 2009110204

STIPULATED SETTLEMENT
FOR PUBLIC REPROVAL

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. David E. Brown (Complainant) is the Executive Officer of the Board for Professional
21 Engineers and Land Surveyors. He brought this action solely in his official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Karen L. Gordon, Deputy Attorney General.

24 2. Respondent Jibran Joseph Hannaney (Respondent) is represented in this proceeding
25 by Attorney Bernard Luther, whose address is 3040 Clairmont Drive, San Diego, CA 92117.

26 3. On or about November 20, 1987, the Board for Professional Engineers and Land
27 Surveyors issued Civil Engineer License No. 43384 to Jibran Joseph Hannaney (Respondent).
28

1 The license was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 856-A and will expire on June 10, 2010, unless renewed.

3 JURISDICTION

4 4. Accusation No. 856-A was filed before the Board for Professional Engineers and
5 Land Surveyors (Board) , Department of Consumer Affairs, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on May 27, 2009. Respondent timely filed his Notice of Defense contesting the
8 Accusation. A copy of Accusation No. 856-A is attached as Exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has had the opportunity to and has in fact reviewed the nature of the
12 charges alleged in Accusation No. 856-A and the terms and conditions set forth herein with his
13 attorney and enters into this Stipulation upon the advice of his attorney.

14 6. Respondent understands the nature of the charges alleged in Accusation No. 856-A
15 and that said charges and allegations, if proven at hearing, would constitute cause for imposing
16 discipline upon his license to practice civil engineering.

17 7. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23 8. With these rights in mind, Respondent hereby freely, voluntarily, and knowingly
24 waives and gives up each and every right set forth above including, but not limited to, the right to
25 a hearing on the charges and allegations contained in Accusation No. 856-A and the right to
26 reconsideration and judicial review, in order to enter into this Stipulated Settlement. Respondent
27 understands that, in signing this Stipulated Settlement rather than contesting the Accusation, he is
28 enabling the Board to issue its order without further process.

1 9. All agreements regarding facts and conclusions of law contained in this Stipulated
2 Settlement are made exclusively for this proceeding and for any future proceedings between the
3 Board and Respondent, or between Respondent and any other licensing agency in the State of
4 California, and shall not be deemed to be admissions for any purpose in any other administrative,
5 civil or criminal action, forum or proceeding.

6 10. Respondent's license history and status as set forth in paragraph 3 of the Accusation
7 are true and correct. Respondent's address of record is current and accurate as set forth in the
8 caption of this Stipulation.

9 11. For the purpose of settlement and compromise of the instant proceeding before the
10 Board only, and not for any other purpose in any other civil or criminal matter, except in
11 proceedings before the Board of Professional Engineers and Land Surveyors or any other
12 professional licensing agency in the State of California, Respondent stipulates that the Board has
13 jurisdiction to impose a public reproof upon his license to practice engineering pursuant to
14 section 495 of the Business and Professions Code.

15 12. It is stipulated and agreed that Civil Engineering License No. 43384 issued to
16 Respondent shall, by way of letter from the Executive Officer, be publicly reproofed. Said letter
17 of public reproof will issue as set forth above and shall be in substantially the same form as the
18 sample letter attached hereto as Exhibit B.

19 13. In consideration for entering into this Stipulated Settlement, Respondent hereby
20 waives any right to challenge the legal effect of this Stipulated Settlement, by way of petition for
21 reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any other
22 legal claim or defense, which he may have asserted, including, but not limited to, any time based
23 claim such as laches, in the event it is necessary to re-calendar an administrative hearing based on
24 any part of or all of Accusation No. 856-A.

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27 ///

1 14. The within Stipulated Settlement shall be subject to the approval of the Board or
2 its Designee. After Respondent has signed the Stipulation, he shall not be permitted to withdraw
3 from the Stipulation unless and until it has been rejected by the Board. If the Board or its
4 Designee fails to approve this Stipulated Settlement, it shall be of no force or effect for either
5 party.

6
7 15. Respondent understands the nature of the charges alleged in Accusation No. 856-A
8 and that said charges and allegations, if proven at hearing, would constitute cause for imposing
9 discipline upon his license to practice civil engineering.

10 16. In consideration of the foregoing stipulations, the parties agree that the Board may,
11 without further notice or formal proceeding, issue and enter the following Order:

12 **DISCIPLINARY ORDER**

13 IT IS HEREBY ORDERED as follows:

14 A Public Reproval shall be issued to Respondent Jibran Joseph Hannaney, Civil Engineer
15 License No. C 43384. It is further ordered that Respondent shall complete the following
16 requirements:

17 A. Within three (3) years from the effective date of the decision, Respondent shall
18 successfully reimburse the Board for its investigative and enforcement costs in the amount of
19 \$1,000.00.

20 B. Within three (3) years from the effective date of the decision, Respondent shall
21 successfully complete and pass, two (2) college-level courses related to the area of violation
22 alleged in the Accusation approved in advance by the Board or its designee. Respondent shall
23 provide the Board with verifiable proof of his successful completion said courses.

24 C. In the event that Respondent fails to comply with either of the requirements set
25 forth under paragraphs A and B of this Order, the Board shall deem Respondent's notice of
26 defense to be withdrawn, and Accusation No. 856-A shall be deemed unchallenged by
27 Respondent, all charges and allegations contained therein shall be admitted as accurate and true,
28

1 and the Board shall enter a default decision against Respondent in the matter of Accusation No.
2 851-A, revoking Respondent's Civil Engineer License No. C 43384.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and have fully discussed it with my
5 attorney, Bernard Luther. I understand the stipulation and the effect it may have on my Civil
6 Engineer's License. I enter into this Stipulated Settlement voluntarily, knowingly, and
7 intelligently. I further agree that a facsimile copy of this Stipulated Settlement including
8 facsimile copies of signatures, may be used with the same force and effect as the originals.

9
10 DATED: 3-17-2010

Original Signed

JIBRAN JOSEPH HANNANEY
Respondent

13 **APPROVAL**

14 I have read and fully discussed with Respondent Jibran Joseph Hannaney the terms and
15 conditions and other matters contained in the above Stipulated Settlement. I approve its form and
16 content.

17 DATED: 3/17/2010

Original signed

Bernard Luther
Attorney for Respondent

1 **ENDORSEMENT**

2 The foregoing Stipulated Settlement is hereby respectfully submitted for consideration by
3 the Board for Professional Engineers and Land Surveyors of the Department of Consumer
4 Affairs.

5 Dated: 3-17-10
6

Respectfully Submitted,

7 EDMUND G. BROWN JR.
Attorney General of California
8 JAMES M. LEDAKIS
Supervising Deputy Attorney General

9 *Original Signed*

10 KAREN L. GORDON
11 Deputy Attorney General
12 *Attorneys for Complainant*

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Exhibit A

Accusation No. 856-A

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KAREN L. GORDON
Deputy Attorney General
4 State Bar No. 137969
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7 Facsimile: (619) 645-2061
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9 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 856-A

12 **JIBRAN JOSEPH HANNANEY**
13 **1040 East Washington Avenue, Apt. 34**
14 **El Cajon, CA 92020**

ACCUSATION

15 **Civil Engineer License No. C 43384**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Arnold (Complainant) brings this Accusation solely in her official capacity as
21 the Interim Executive Officer of the Board for Professional Engineers and Land Surveyors,
22 Department of Consumer Affairs.

23 2. On or about November 20, 1987, the Board for Professional Engineers and Land
24 Surveyors issued Civil Engineer License Number C 43384 to Jibran Joseph Hannaney
25 (Respondent). The license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 10, 2010, unless renewed.

27 / / /

28 / / /

JURISDICTION

3. This Accusation is brought before the Board for Professional Engineers and Land Surveyors (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 6775 of the Code states, in pertinent part:

The board may receive and investigate complaints against registered professional engineers, and make findings thereon.

By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

...

(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

REGULATORY PROVISIONS

6. Section 419 of the Title 16, California Code of Regulations states:

For violations of Business and Professions Code sections 6775 and/or 8780 which result in an order issued in accordance with Chapters 4.5 and 5 of Part 1 of Division 3 of Title 2 of the Government Code against a professional engineering and/or a professional land surveying license, the following provisions shall apply to disciplinary orders contained in decisions of the Board:

(a) The minimum disciplinary order shall be reproof. The maximum disciplinary order shall be revocation of the license.

(b) If warranted by extenuating and/or mitigating factors in the matter, the disciplinary order may be stayed by an express condition that the respondent comply with probationary conditions. The minimum time period in which the respondent shall have to comply with the conditions shall be two years. For purposes of this section, this time period shall be known as the "period of probation."

(c) All decisions containing stayed disciplinary orders as described in subdivision (b) shall include . . . probationary conditions:

...

1 **COST RECOVERY**

2 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FACTUAL BACKGROUND**

7 8. On March 21, 2002, the Board received a complaint against Respondent, a licensed
8 civil engineer, for practicing geology below the standard of care. The complainant contended that
9 Respondent was the responsible signing Civil Engineer with H.E.M.C. Environmental
10 Management Corp. on three substandard environmental reports for San Diego County, California.
11 The complainant alleged that Respondent provided substandard geologic services by
12 mischaracterizing the subsurface soil conditions and produced reports that were substandard in
13 quality and content.

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Incompetence)

16 9. Respondent is subject to disciplinary action for incompetence and work below the
17 standard of practice with regard to three environmental reports for which Respondent was the
18 responsible signing Civil Engineer where he demonstrated incompetence in violation of Code
19 section 6775(c). Respondent's reports demonstrate that he does not understand the geologic
20 aspects of site characterization. Respondent did not properly differentiate and classify the
21 subsurface conditions. Respondent did not properly design the monitoring wells. Respondent's
22 referenced figures in his reports contained errors and omissions which demonstrated a lack of the
23 standard of care.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board for Professional Engineers and Land Surveyors issue a decision:

1. Revoking or suspending Civil Engineer License Number C 43384, issued to Jibran Joseph Hannaney.
2. Ordering Jibran Joseph Hannaney to pay the Board for Professional Engineers and Land Surveyors the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: May 19, 2009

Original Signed

Joanne Arnold
Interim Executive Officer
Board for Professional Engineers and Land Surveyors
Department of Consumer Affairs
State of California
Complainant

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80360224.doc

Exhibit B

Sample Letter of Public Reproval

**BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

2535 Capitol Oaks Drive, Suite 300, Sacramento, CA 95833-2944

Telephone: (916) 263-2222 Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.pels.ca.gov



DATE

Jibran Joseph Hannaney
1040 East Washington Avenue, Apt. 34
El Cajon, CA 92020

PUBLIC REPROVAL**IN THE MATTER OF ACCUSATION NO. 856-A
AGAINST JIBRAN JOSEPH HANNANEY**

This letter shall serve as reproof as ordered pursuant to the Decision of the California Board for Professional Engineers and Land Surveyors in the Matter of Accusation No. 856-A, which became effective on [EFFECTIVE DATE].

On May 19, 2009, Accusation No. 856-A was filed against your Civil Engineer License, No. C 43384, alleging that your license was subject to disciplinary action pursuant to Business and Professions Code section 6775. The Accusation alleged that you were in responsible charge of three environmental reports for projects in San Diego County; it was further alleged that these reports fell below the standard of care for civil engineering.

On [DATE], you entered into a Stipulated Settlement and Disciplinary Order in this matter. The California Board for Professional Engineers and Land Surveyors adopted this Stipulated Settlement and Disciplinary Order as its Decision in this matter, to become effective on [EFFECTIVE DATE].

In the Stipulated Settlement and Disciplinary Order, you admitted that, if proven at a hearing, the allegations and charges set forth in Accusation No. 856-A would constitute cause for imposing discipline upon your license to practice civil engineering and that you understood that by signing the stipulation, you enabled the Board to issue its order without further process. Furthermore, you agreed that your Civil Engineer License is subject to discipline, and you agreed to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order of the Stipulated Settlement and Disciplinary Order.

Accordingly, pursuant to the Decision in the Matter of Accusation No. 856-A, you are hereby issued this Public Reproof by the California Board for Professional Engineers and Land Surveyors.

DAVID E. BROWN
Executive Officer
Board for Professional Engineers
and Land Surveyors
State of California